

AMENDED IN SENATE MAY 23, 2006

AMENDED IN SENATE MARCH 29, 2006

**SENATE BILL**

**No. 1800**

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**Introduced by Senators Ducheny and Cedillo**

February 24, 2006

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An act to amend Sections 65300, 65302, 65582, 65583, 65583.2, 65584, 65584.01, 65584.02, 65584.04, ~~and 65584.07~~ 65584.07, and 65585 of, to add Sections 16318, 16319, 16319.5, ~~and 65300.1~~ 65300.1, 65583.3, 65583.4, 65583.5, 65583.6, 65583.7, 65583.8, 65583.9, 65583.10, 65583.11, and 65583.12 to, ~~to add Article 9 (commencing with Section 65470) to Chapter 3 of Division 1 of Title 7 of,~~ and to repeal and add Section 65588 of, the Government Code, relating to housing, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1800, as amended, Ducheny. General plans: housing.

Existing law requires each planning agency to prepare, and the legislative body of each county and city to adopt, a comprehensive, long-term general plan for the physical development of the county or city. The general plan consists of various elements, including a housing element. The housing element consists, in part, of an identification and analysis of existing and projected housing needs in the community and the community's share of regional housing needs, and is to be periodically revised.

This bill would require the legislative body of a local agency, as defined, to adopt the general plan, would define the term "long-term," with respect to the general plan, and would require the local government at the same time it revises its housing element to adopt a housing opportunity plan, as described, as a part of the housing

element, thereby imposing a state-mandated local program. ~~The bill would establish the Housing Opportunity Plan Fund, to be administered by the Pooled Money Investment Board. Upon appropriation by the Legislature, moneys in the fund shall be used for the purpose of providing loans from the Pooled Money Investment Account to cities, counties, and cities and counties to prepare and adopt plans that provide housing pursuant to the housing opportunity plans. The bill would create in the State Treasury the Housing Planning Fund, which would be continuously appropriated to the Department of Housing and Community Development for specified purposes relating to housing opportunity plans. The fund would be funded by an unspecified fee imposed upon each application for a building permit for new residential construction collected by cities and counties and paid into the fund. The bill would revise procedures for the adoption of local and regional housing needs, and would make related and conforming changes.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 16318 is added to the Government Code, to read:

~~16318. There is hereby established in the State Treasury the Housing Opportunity Plan Revolving Fund, to be administered by the Pooled Money Investment Board. Upon appropriation by the Legislature, moneys in the fund shall be used for the purpose of providing loans on any terms and conditions as the board may determine, from the Pooled Money Investment Account to cities, counties, and cities and counties to prepare and adopt plans that provide for housing pursuant to Article 9 (commencing with Section 65470) of Chapter 3 of Division 1 of Title 7.~~

*16318. The Legislature finds and declares all of the following:*

*(a) Comprehensive and long-term planning and zoning by cities and counties is a critical prerequisite to the development of an adequate supply of housing in this state.*

*(b) When cities and counties properly plan and zone land for a full range of residential uses, they are establishing a streamlined planning and entitlement process that better allows market forces to respond to the housing needs and desires of the community.*

*(c) A streamlined planning entitlement process produces measurable cost benefits for those who are called upon to build the housing and measurable benefits to local agencies through increase tax revenues.*

*(d) It may be costly for cities and counties to update their planning documents and conduct the necessary environmental review associated with those documents. Many communities find it difficult to provide the revenue to support the more comprehensive and initial planning.*

*(e) Because homebuilders and the community benefit from the existence of properly planned and zoned land for residential uses, it is appropriate for a city or a county to charge a flat fee on the development of new housing to support their housing planning activities.*

SEC. 2. Section 16319 is added to the Government Code, to read:

~~16319. To be eligible for a loan from the Housing Opportunity Plan Revolving Fund the city, county, or city and~~

~~county shall submit to the Department of Housing and Community Development the annual report required by Section 65400 within the preceeding 12 months.~~

*16319. The Housing Planning Fund is hereby created in the State Treasury and is continuously appropriated to the department for the purposes of this section. Fees collected and remitted by cities and counties pursuant to this section and any interest derived therefrom shall be paid into the fund. Two percent of any moneys paid into the fund shall be transferred to the Regional Housing Needs Assessment Subaccount which is hereby created within the fund. Administrative expenses of the department shall not exceed 5 percent of the funds deposited into the fund.*

SEC. 3. Section 16319.5 is added to the Government Code, to read:

~~16319.5. (a) Loans made from the Housing Opportunity Plan Revolving Fund shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_) and shall be for a term of not more than 10 years. It is the intent of the Legislature that the loans be repaid primarily by a fee collected at the time of the issuance of a permit for new residential construction. Notwithstanding any other provision of law, any fee collected pursuant to this section shall be subject to Section 66020. It is the intention of the Legislature that the fee shall be in an amount that will fund the incremental costs of complying with the requirements imposed by Senate Bill No. 1800 of the 2005-06 Regular Session of the Legislature amending this section. The board in its sole discretion, may extend the term of the loan upon a finding of undue hardship.~~

~~(b) A loan from the Housing Opportunity Plan Revolving Fund shall incur 3 percent simple interest. If the Housing Opportunity Plan (Article 9 (commencing with Section 65470) of Chapter 3 of Division 1 of Title 7) is not adopted within two years of the date established in the loan agreement, the interest rate shall be recalculated from the initial closing date of the loan agreement at 6 percent simple interest.~~

~~(c) Loan funds may be used for staff costs, or the cost of a consulting contract, to process the Housing Opportunity Plan (Article 9 (commencing with Section 65470) of Chapter 3 of Division 1 of Title 7), conduct environmental assessments or other necessary studies, and provide for public participation~~

~~outside of regularly scheduled meetings of established governing bodies, including a planning commission, city council, or board of supervisors.~~

16319.5. (a) *There is hereby imposed upon each application for a building permit for new residential construction a fee of \_\_\_\_\_ dollars (\$\_\_\_\_\_).*

(b) *A city or county shall collect the fee at the time a building permit is issued. At least quarterly, the city or county shall pay into the Housing Planning Fund any fees collected during that quarter. Administrative expenses of the city or county shall not exceed 2 percent of the funds deposited into the fund.*

(c) *The department shall make available from the fund grants to cities and counties for the purpose of preparing and adopting housing opportunity plans pursuant to Sections 65583.3 to 65583.12, inclusive. Grants shall be disbursed to communities after the appropriate council of governments or the department, as applicable, allocates the regional housing need for the pending planning cycle pursuant to Section 65584.05 or 65584.06. Grants shall be based on the number of units allocated to each locality by the council of governments or the department. Grants shall be applied by the locality solely and exclusively to offset the costs directly incurred for the preparation and adoption of a housing opportunity plan.*

(d) *The department shall make available from the Regional Housing Needs Subaccount grants to councils of governments for the costs of preparing the allocation of the regional housing need pursuant to Sections 65584 to 65584.07, inclusive. The department shall determine criteria for the timing and amount of the grants.*

(e) *The department may administer the funds pursuant to guidelines that are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2. Administrative expenses of the department shall not exceed 5 percent of the funds deposited into the fund.*

(f) *Notwithstanding any other provision of law, any fee collected pursuant to this section shall be subject to Section 66020. It is the intention of the Legislature that the fee shall be paid in an amount that will fund the incremental costs of complying with the requirements imposed by Senate Bill 1800 of the 2005–06 Regular Session of the Legislature.*

SEC. 4. Section 65300 of the Government Code is amended to read:

65300. (a) Each planning agency shall prepare, and the legislative body of each local government shall adopt, a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that in the planning agency's judgment bears relation to its planning. Chartered cities shall adopt general plans that contain the mandatory elements specified in Section 65302. "Long-term," as used in this section, means that the general plan, including all of its functional elements, shall encompass a planning and projection period of not less than 20 years. "Comprehensive," as used in this section and Section 65302, shall mean that the population and employment projections of all of the functional elements of the general plan are consistent with each other and are periodically updated not less than every 10 years.

(b) "Local government," as used in this chapter and in Chapter 4 (commencing with Section 65800), means a city, county, or city and county.

~~(c) As used in Section 65584, "taking care of their own" or "taking care of its own" shall mean that each local government shall have an obligation to at least plan to accommodate their own natural population increases and job generation for the full spectrum of the population, including very low and low-income households and workers as determined pursuant to Section 65584 and Section 65584.01.~~

SEC. 5. Section 65300.1 is added to the Government Code, to read:

65300.1. The Legislature finds and declares all of the following:

(a) The lack of housing is a critical problem that threatens the economic prosperity, environment, and quality of life of California families.

(b) The supply and cost of housing throughout the state is inextricably linked to the quantity of land suitable and available for residential development. ~~In order to comprehensively address the housing crisis on a long-term basis, local governments must ensure the availability of sufficient sites to accommodate their 20-year projected need for new housing.~~

1 (c) Local governments shall utilize their land use authority in  
2 a manner that accommodates the long-term housing need while  
3 meeting the objectives for comprehensive planning set forth in  
4 subdivision (a) of Section 65300.

5 (d) Accommodating long-term housing needs while meeting  
6 the objectives for comprehensive planning set forth in  
7 subdivision (a) of Section 65300 serves to advance the following  
8 objectives for a prosperous economy, a quality environment, and  
9 social equity:

10 (1) An adequate supply of housing and transportation  
11 infrastructure to support population growth and economic  
12 expansion.

13 (2) A mix of housing in proximity to employment centers.

14 (3) A mix of housing types for all economic segments within  
15 each community.

16 (4) Construction of housing at densities that reflect an efficient  
17 use of the land and an effective use of public subsidies to achieve  
18 affordable housing to very low, low-, and moderate-income  
19 households.

20 (5) Promotion of opportunities and regulatory certainty for  
21 development of infill or refill sites on vacant or underutilized  
22 land, and brownfield sites.

23 (6) Efficient development patterns and promotion of greater  
24 public use of alternative modes of transportation.

25 (7) Minimization of development pressures on prime  
26 agricultural land, as defined in subdivision (c) of Section 51201.

27 (8) Protection of wildlife habitat pursuant to federal or state  
28 law.

29 SEC. 6. Section 65302 of the Government Code is amended  
30 to read:

31 65302. The general plan shall consist of a statement of  
32 development policies and shall include a diagram or diagrams  
33 and text setting forth objectives, principles, standards, and plan  
34 proposals. The plan shall include the following elements:

35 (a) A land use element that designates the proposed general  
36 distribution and general location and extent of the uses of the  
37 land for housing, business, industry, open space, including  
38 agriculture, natural resources, recreation, and enjoyment of  
39 scenic beauty, education, public buildings and grounds, solid and  
40 liquid waste disposal facilities, and other categories of public and

1 private uses of land. The land use element shall include a  
2 statement of the standards of population density and building  
3 intensity recommended for the various districts and other  
4 territory covered by the plan. The land use element shall identify  
5 areas covered by the plan that are subject to flooding and shall be  
6 reviewed annually with respect to those areas. The land use  
7 element shall also do each *both* of the following:

8 ~~(1) Designate sufficient land for residential use to meet the~~  
9 ~~regional housing need consistent with Sections 65583, 65583.2,~~  
10 ~~65584, and 65584.01. At least every 10 years the city council or~~  
11 ~~board of supervisors shall review this part of the land use element~~  
12 ~~and shall make any necessary amendments to ensure that there~~  
13 ~~continues to be designated a 20-year supply of land for~~  
14 ~~residential use.~~

15 ~~(2)~~

16 (1) Designate in a land use category that provides for timber  
17 production those parcels of real property zoned for timberland  
18 production pursuant to the California Timberland Productivity  
19 Act of 1982 (Chapter 6.7 (commencing with Section 51100) of  
20 Part 1 of Division 1 of Title 5).

21 ~~(3)~~

22 (2) Consider the impact of new growth on military readiness  
23 activities carried out on military bases, installations, and  
24 operating and training areas, when proposing zoning ordinances  
25 or designating land uses covered by the general plan for land, or  
26 other territory adjacent to military facilities, or underlying  
27 designated military aviation routes and airspace.

28 (A) In determining the impact of new growth on military  
29 readiness activities, information provided by military facilities  
30 shall be considered. Cities and counties shall address military  
31 impacts based on information from the military and other  
32 sources.

33 (B) The following definitions govern this paragraph:

34 (i) “Military readiness activities” mean all of the following:

35 (I) Training, support, and operations that prepare the men and  
36 women of the military for combat.

37 (II) Operation, maintenance, and security of any military  
38 installation.

39 (III) Testing of military equipment, vehicles, weapons, and  
40 sensors for proper operation or suitability for combat use.

1 (ii) “Military installation” means a base, camp, post, station,  
2 yard, center, homeport facility for any ship, or other activity  
3 under the jurisdiction of the United States Department of  
4 Defense, as defined in paragraph (1) of subsection (e) of Section  
5 2687 of Title 10 of the United States Code.

6 (b) A circulation element consisting of the general location  
7 and extent of existing and proposed major thoroughfares,  
8 transportation routes, terminals, any military airports and ports,  
9 and other local public utilities and facilities, all correlated with  
10 the land use element of the plan.

11 (c) A housing element, as provided in Article 10.6  
12 (commencing with Section 65580).

13 (d) A conservation element for the conservation, development,  
14 and utilization of natural resources, including water and its  
15 hydraulic force, forests, soils, rivers and other waters, harbors,  
16 fisheries, wildlife, minerals, and other natural resources. The  
17 conservation element shall consider the effect of development  
18 within the jurisdiction, as described in the land use element, on  
19 natural resources located on public lands, including military  
20 installations. That portion of the conservation element, including  
21 waters, shall be developed in coordination with any countywide  
22 water agency and with all district and city agencies that have  
23 developed, served, controlled, or conserved water for any  
24 purpose for the county or city for which the plan is prepared.  
25 Coordination shall include the discussion and evaluation of any  
26 water supply and demand information described in Section  
27 65352.5, if that information has been submitted by the water  
28 agency to the city or county. The conservation element may also  
29 cover the following:

30 (1) The reclamation of land and waters.

31 (2) Prevention and control of the pollution of streams and  
32 other waters.

33 (3) Regulation of the use of land in stream channels and other  
34 areas required for the accomplishment of the conservation plan.

35 (4) Prevention, control, and correction of the erosion of soils,  
36 beaches, and shores.

37 (5) Protection of watersheds.

38 (6) The location, quantity, and quality of the rock, sand, and  
39 gravel resources.

40 (7) Flood control.

1 The conservation element shall be prepared and adopted no  
2 later than December 31, 1973.

3 (e) An open-space element, as provided in Article 10.5  
4 (commencing with Section 65560).

5 (f) A noise element that shall identify and appraise noise  
6 problems in the community. The noise element shall recognize  
7 the guidelines established by the Office of Noise Control in the  
8 State Department of Health Services and shall analyze and  
9 quantify, to the extent practicable, as determined by the  
10 legislative body, current and projected noise levels for all of the  
11 following sources:

12 (1) Highways and freeways.

13 (2) Primary arterials and major local streets.

14 (3) Passenger and freight online railroad operations and  
15 ground rapid transit systems.

16 (4) Commercial, general aviation, heliport, helistop, and  
17 military airport operations, aircraft overflights, jet engine test  
18 stands, and all other ground facilities and maintenance functions  
19 related to airport operation.

20 (5) Local industrial plants, including, but not limited to,  
21 railroad classification yards.

22 (6) Other ground stationary noise sources, including, but not  
23 limited to, military installations, identified by local agencies as  
24 contributing to the community noise environment.

25 Noise contours shall be shown for all of these sources and  
26 stated in terms of community noise equivalent level (CNEL) or  
27 day-night average level ( $L_{dn}$ ). The noise contours shall be  
28 prepared on the basis of noise monitoring or following generally  
29 accepted noise modeling techniques for the various sources  
30 identified in paragraphs (1) to (6), inclusive.

31 The noise contours shall be used as a guide for establishing a  
32 pattern of land uses in the land use element that minimizes the  
33 exposure of community residents to excessive noise.

34 The noise element shall include implementation measures and  
35 possible solutions that address existing and foreseeable noise  
36 problems, if any. The adopted noise element shall serve as a  
37 guideline for compliance with the state's noise insulation  
38 standards.

39 (g) A safety element for the protection of the community from  
40 any unreasonable risks associated with the effects of seismically

1 induced surface rupture, ground shaking, ground failure, tsunami,  
2 seiche, and dam failure; slope instability leading to mudslides  
3 and landslides; subsidence, liquefaction, and other seismic  
4 hazards identified pursuant to Chapter 7.8 (commencing with  
5 Section 2690) of the Public Resources Code, and other geologic  
6 hazards known to the legislative body; flooding; and wild land  
7 and urban fires. The safety element shall include mapping of  
8 known seismic and other geologic hazards. It shall also address  
9 evacuation routes, military installations, peakload water supply  
10 requirements, and minimum road widths and clearances around  
11 structures, as those items relate to identified fire and geologic  
12 hazards.

13 (1) Prior to the periodic review of its general plan and prior to  
14 preparing or revising its safety element, each city and county  
15 shall consult the Division of Mines and Geology of the  
16 Department of Conservation and the Office of Emergency  
17 Services for the purpose of including information known by, and  
18 available to, the department and the office required by this  
19 subdivision.

20 (2) To the extent that a county's safety element is sufficiently  
21 detailed and contains appropriate policies and programs for  
22 adoption by a city, a city may adopt that portion of the county's  
23 safety element that pertains to the city's planning area in  
24 satisfaction of the requirement imposed by this subdivision.

25 ~~SEC. 7. Article 9 (commencing with Section 65470) is added~~  
26 ~~to Chapter 3 of Division 1 of Title 7 of the Government Code, to~~  
27 ~~read:~~

28  
29 ~~Article 9. Housing Opportunity Plans~~  
30

31 ~~65470. At the same time the local government revises its~~  
32 ~~housing element pursuant to subdivision (c) of Section 65588,~~  
33 ~~each city council and board of supervisors shall adopt a housing~~  
34 ~~opportunity plan as part of the housing element.~~

35 ~~65471. (a) The housing opportunity plan shall, upon~~  
36 ~~adoption, do all of the following:~~

37 ~~(1) Include a map or other description outlining the area or~~  
38 ~~areas covered by the plan.~~

1     ~~(2) Include a land use program that includes the distribution,~~  
2     ~~location, and extent of uses of the land within the area covered by~~  
3     ~~the plan.~~

4     ~~(3) From the sites identified pursuant to subdivision (a) of~~  
5     ~~Section 65583.2, designate and zone adequate sites for residential~~  
6     ~~use to accommodate the jurisdiction's 10-year housing need~~  
7     ~~allocated pursuant to Sections 65584 and 65584.01 (housing~~  
8     ~~opportunity sites). The local government's obligation to zone~~  
9     ~~adequate sites to accommodate its share of the region's 10-year~~  
10    ~~housing need for very low, low-, and moderate-income~~  
11    ~~households shall be satisfied by zoning sites to allow the~~  
12    ~~specified minimum number of units per acre, as identified in~~  
13    ~~subdivision (d) of Section 65583.2. Residential use on a site~~  
14    ~~zoned to allow a specified minimum number of units per acre, as~~  
15    ~~identified in subdivision (d) of Section 65583.2, shall be by right,~~  
16    ~~as defined in subdivision (h) of Section 65583.2.~~

17    ~~(A) The designation and zoning for a housing opportunity site~~  
18    ~~shall establish and allow development of a minimum and~~  
19    ~~maximum density range.~~

20    ~~(B) The city council or board of supervisors shall make a~~  
21    ~~finding, supported by substantial evidence in the record, that each~~  
22    ~~housing opportunity site is adequate for construction of the~~  
23    ~~maximum number of units allowed by the density range~~  
24    ~~applicable to the site. A finding of adequacy shall be based on a~~  
25    ~~showing that the site is appropriate in terms of size,~~  
26    ~~configuration, physical characteristics, current use, physical and~~  
27    ~~environmental constraints, access, location, adjacent use, market~~  
28    ~~factors, current or planned availability of infrastructure and~~  
29    ~~services, and other relevant planning criteria.~~

30    ~~(4) Include residential design and landscape architecture~~  
31    ~~guidelines that permit the construction of the maximum number~~  
32    ~~of units allowed by the density range applicable to the housing~~  
33    ~~opportunity site.~~

34    ~~(5) Include an infrastructure plan that shows the proposed~~  
35    ~~distribution, location, extent, and intensity of the major~~  
36    ~~components of the public and private transportation, sewage,~~  
37    ~~water, drainage, solid waste disposal, energy, and other essential~~  
38    ~~facilities and services proposed to be located within the area~~  
39    ~~covered by the plan and needed to support the land uses~~  
40    ~~described in the plan.~~

1 ~~(6) Describe how the construction and maintenance of public~~  
2 ~~infrastructure and the provision of public services identified in~~  
3 ~~paragraph (5) will be funded.~~

4 ~~(7) Include a program of implementation measures including~~  
5 ~~property development standards, regulations, criteria, and other~~  
6 ~~measures necessary to carry out the plan. The implementation~~  
7 ~~measures shall permit the construction of the maximum number~~  
8 ~~of units allowed by the density range applicable to the housing~~  
9 ~~opportunity site.~~

10 ~~(8) Include standards for the conservation, development, and~~  
11 ~~utilization of natural resources, where applicable.~~

12 ~~(b) A housing opportunity plan may apply the design and~~  
13 ~~architecture guidelines and implementation measures, including~~  
14 ~~property development standards, regulations, criteria, and other~~  
15 ~~measures necessary to carry out the plan, on an areawide or~~  
16 ~~site-specific basis.~~

17 ~~(c) The housing opportunity plan may address any other~~  
18 ~~subjects that in the judgment of the planning agency are~~  
19 ~~necessary or desirable for implementation of the plan.~~

20 ~~(d) Not later than five years after the initial adoption of the~~  
21 ~~housing opportunity plan, and every five years thereafter, the city~~  
22 ~~council or board of supervisors shall complete a review and~~  
23 ~~update of the housing opportunity plan. As part of the five-year~~  
24 ~~review, the city council or board of supervisors shall make any~~  
25 ~~necessary amendments to ensure that the housing opportunity~~  
26 ~~plan complies with the requirements of this section, including~~  
27 ~~amendments and findings of adequacy to ensure that the housing~~  
28 ~~opportunity plan designates and zones at a minimum adequate~~  
29 ~~sites for residential use to accommodate the jurisdiction's~~  
30 ~~housing need for the next 10-year period allocated to the~~  
31 ~~jurisdiction by the council of governments.~~

32 ~~65472. (a) In addition to the notice and hearing requirements~~  
33 ~~that apply to the adoption of a mandatory element of a general~~  
34 ~~plan, when a jurisdiction adopts its initial housing opportunity~~  
35 ~~plan and when it adopts a major amendment as part of a five-year~~  
36 ~~review, it shall follow these procedures:~~

37 ~~(1) On or before six months prior to the first planning~~  
38 ~~commission hearing, a statement of preparation shall be~~  
39 ~~published in a newspaper of general circulation, mailed to all~~  
40 ~~property owners whose property is proposed for inclusion in the~~

1 ~~housing opportunity plan, all property owners living within 500~~  
2 ~~feet of the boundaries of the housing opportunity plan, all~~  
3 ~~homeowners associations within the boundaries of the housing~~  
4 ~~opportunity plan, and all persons requesting notice of the~~  
5 ~~planning actions of the jurisdiction.~~

6 ~~(2) The legislative body shall appoint a community advisory~~  
7 ~~committee to provide citizen input. The legislative body shall, by~~  
8 ~~resolution, adopt a procedure for the formation of the community~~  
9 ~~advisory committee. The procedure shall include all of the~~  
10 ~~following:~~

11 ~~(A) Publishing notice in a newspaper of general circulation of~~  
12 ~~the opportunity to serve on the community advisory committee at~~  
13 ~~least 30 days prior to the formation of the community advisory~~  
14 ~~committee. The legislative body shall make a diligent effort to~~  
15 ~~achieve public participation of all economic segments of the~~  
16 ~~community in the development of the housing opportunity plan.~~

17 ~~(B) The legislative body shall conduct a minimum of one~~  
18 ~~public meeting to explain the establishment of, functions of, and~~  
19 ~~opportunity to service on, the community advisory committee.~~

20 ~~(3) One or more community forums shall be held. Notice shall~~  
21 ~~be provided to all persons attending the community forums of~~  
22 ~~subsequent consideration of the plan.~~

23 ~~(4) Compliance with the referral requirements of Section~~  
24 ~~65352.~~

25 ~~(b) Within 30 days after adoption, the jurisdiction shall mail~~  
26 ~~notice to all property owners of lands within one-quarter mile of~~  
27 ~~the exterior boundary of each area included within the plan. The~~  
28 ~~jurisdiction shall adopt a local disclosure statement that requires~~  
29 ~~all purchasers of land within one-quarter mile of the exterior~~  
30 ~~boundary of each area included within the plan to be notified of~~  
31 ~~the plan and how to obtain a copy of the plan.~~

32 ~~(c) For purposes of this article, “major amendment” means an~~  
33 ~~amendment that changes the permitted uses or intensity of uses~~  
34 ~~applicable to a site within the plan, removes a site from the plan,~~  
35 ~~or adds a site to the plan.~~

36 ~~65473. (a) Any approval sought in connection with a~~  
37 ~~residential project that is consistent with the housing opportunity~~  
38 ~~plan shall be subject to the Permit Streamlining Act (Chapter 4.5~~  
39 ~~(commencing with Section 65920) of Division 1 of Title 7). For~~  
40 ~~purposes of this section, a residential project is consistent with~~

1 the housing opportunity plan if it substantially conforms to the  
2 housing opportunity plan as determined by the legislative body of  
3 the city or county.

4 (b) (1) Any approval sought in connection with a residential  
5 project that is consistent with the housing opportunity plan may  
6 not be denied or conditioned on reducing the residential project's  
7 density below that proposed by the applicant unless by four-fifths  
8 vote the legislative body makes written findings pursuant to  
9 subdivision (j) of Section 65589.5. For purposes of this section,  
10 an abstention may not count as an affirmative vote for purposes  
11 of satisfying the four-fifths vote requirement.

12 (2) An action or proceeding by a project applicant alleging that  
13 the legislative body has denied or conditioned a residential  
14 project in violation of this subdivision shall be commenced and  
15 the public agency served within 60 days of the public agency's  
16 decision. If the plaintiff is the prevailing party it shall be awarded  
17 attorney's fees if the court determines that the legislative body  
18 acted in bad faith.

19 (3) Nothing in this subdivision shall preclude the local  
20 jurisdiction from imposing an otherwise lawful condition,  
21 including the payment of fees, on the residential project.

22 (c) (1) Any residential project that is undertaken to implement  
23 and is consistent with a housing opportunity plan for which an  
24 environmental impact report has been certified is exempt from  
25 the requirements of the California Environmental Quality Act  
26 (Division 13 (commencing with Section 21000) of the Public  
27 Resources Code). However, if after adoption of the housing  
28 opportunity plan, an event as specified in Section 21166 of the  
29 Public Resources Code occurs, the exemption provided by this  
30 subdivision does not apply unless and until a supplemental  
31 environmental impact report for the housing opportunity plan is  
32 prepared and certified in accordance with Division 13  
33 (commencing with Section 21000) of the Public Resources Code.  
34 After a supplemental environmental impact report is certified, the  
35 exemption specified in this subdivision applies to residential  
36 projects undertaken pursuant to the housing opportunity plan.

37 (2) An action or proceeding alleging that a public agency has  
38 approved a residential project pursuant to a housing opportunity  
39 plan without having previously certified a supplemental  
40 environmental impact report for the housing opportunity plan,

1 where required by paragraph (1), shall be commenced and the  
2 public agency served within 30 days of the public agency's  
3 decision to approve the residential project.

4 (d) An action challenging a public agency's decision to  
5 approve a residential project within the housing opportunity plan  
6 on the basis that the residential project is inconsistent with the  
7 housing opportunity plan shall be commenced and service made  
8 on the public agency within 30 days of the public agency's  
9 decision to approve the residential project.

10 (e) For purposes of this section, "residential project" includes  
11 a mixed-use development consisting of residential and  
12 nonresidential uses in which nonresidential uses are limited to  
13 neighborhood commercial uses and to the first floor of buildings  
14 that are two or more stories if the nonresidential uses are  
15 approved by the local agency in accordance with its review  
16 process for mixed-use development. For purposes of this  
17 subdivision, "neighborhood commercial" means small-scale  
18 general or specialty stores that furnish goods or services  
19 primarily to residents of the neighborhood.

20 (f) (1) Except as provided in paragraph (2), for the first five  
21 years that a site is within the housing opportunity plan, the  
22 provisions of the housing opportunity plan applicable to that site  
23 may not be amended except by a four-fifths vote of the  
24 legislative body after making written findings pursuant to  
25 subdivision (j) of Section 65589.5. If the amendment would  
26 result in the housing opportunity plan not containing adequate  
27 sites to accommodate the 10-year housing need requirement, the  
28 jurisdiction shall add adequate sites to the housing opportunity  
29 plan so that there is no net loss of residential density. An action  
30 or proceeding alleging that the legislative body has amended the  
31 housing opportunity plan in violation of this paragraph shall be  
32 commenced, and the public agency served, within 60 days. If the  
33 plaintiff is the prevailing party, it shall be awarded attorney's  
34 fees if the court determines that the legislative body acted in bad  
35 faith.

36 (2) At any time, the owner of a site within the housing  
37 opportunity plan or a project applicant may request an  
38 amendment to the plan. When a property owner or project  
39 applicant requests an amendment to the plan, the city council or  
40 board of supervisors has discretion to approve or deny the

1 amendment by majority vote without making a health and safety  
2 finding, subject to compliance with paragraph (3), or as may be  
3 limited or prohibited by another provision of law, such as the  
4 existence of a development agreement or vesting tentative map.

5 (3) If the proposed amendment requests a reduction in density  
6 below the established minimum density for a site within the  
7 housing opportunity plan and would result in the remaining sites  
8 not being adequate to accommodate the 10-year housing need  
9 requirement, the jurisdiction may reduce the density below the  
10 established minimum density on that site if it adds adequate sites  
11 to the housing opportunity plan so that there is no net loss of  
12 residential density.

13 (g) (1) Except as provided in paragraph (2), or as may be  
14 limited or prohibited by another provision of law such as the  
15 existence of a development agreement or vesting tentative map,  
16 after a site has been in the housing opportunity plan for more  
17 than five years, the provisions of the plan applicable to that site  
18 may be amended by majority vote of the legislative body and  
19 without making a health and safety finding. If the amendment  
20 would result in the remaining sites not being adequate to  
21 accommodate the 10-year housing need requirement, the  
22 jurisdiction shall add adequate sites to the housing opportunity  
23 plan so that there is no net loss of residential density.

24 (2) When a complete application has been submitted to  
25 develop a residential project, or a project applicant has submitted  
26 a letter of intent to develop a residential project, within the  
27 housing opportunity plan to the local jurisdiction and expended  
28 the amount specified in Section 66452.6 in preproject  
29 expenditures, those parts of the plan applicable to the residential  
30 project may not be amended except by four-fifths vote of the  
31 legislative body after making written findings pursuant to  
32 subdivision (j) of Section 65589.5. A letter of intent to develop  
33 shall cease to have effect under this paragraph if a project  
34 application is not submitted within three years after the letter of  
35 intent is filed.

36 (3) An action or proceeding alleging that the legislative body  
37 has amended the housing opportunity plan in violation of  
38 paragraph (2) shall be commenced, and the public agency served,  
39 within 60 days of the public agency's decision. If the plaintiff is

1 the prevailing party, it shall be awarded attorney's fees if the  
2 court determines that the legislative body acted in bad faith.

3 65474. A housing opportunity plan may not be subject to  
4 review and certification by the Department of Housing and  
5 Community Development pursuant to Section 65585.

6 65475. (a) Each local jurisdiction shall send a copy of its  
7 adopted housing opportunity plan and all subsequent  
8 amendments to the council of governments. If the council of  
9 governments has not received a jurisdiction's housing  
10 opportunity plan within 30 days of the date required for plan  
11 adoption, or an amendment required as part of a five-year review  
12 within 30 days of the date required for plan revision, the council  
13 of governments shall immediately notify the Attorney General  
14 and the Controller.

15 (b) (1) When a local jurisdiction fails to adopt the housing  
16 opportunity plan by the required deadline, or fails to adopt an  
17 amendment required as part of a five-year review by the required  
18 deadline, at any time before the local jurisdiction adopts the plan  
19 or amendment, the Attorney General or any person may bring an  
20 action to require adoption of the plan or amendment. If the court  
21 finds in the plaintiff or petitioner's favor, it shall promptly issue  
22 an order requiring the jurisdiction to adopt the plan or  
23 amendment within 90 days of the date of the order.

24 (2) If the action is brought more than 90 days after the  
25 deadline and the court finds in the plaintiff or petitioner's favor,  
26 the court order shall also appoint a special master to oversee the  
27 adoption of the plan or amendment by the jurisdiction. The order  
28 shall provide the special master with the authority to establish  
29 progress deadlines within the 90-day period described in  
30 paragraph (1) and shall provide that a jurisdiction's failure to  
31 meet a deadline shall result in a fine of ten thousand dollars  
32 (\$10,000) per day for each day the deadline is missed. Fines shall  
33 not be paid from any funds that are collected or dedicated for  
34 affordable housing. Fines shall be transferred to the council of  
35 governments and made available for expenditure on affordable  
36 housing projects within the region. The court's order shall also  
37 authorize the special master to oversee the review and approval  
38 of residential projects.

39 (3) If the plaintiff or petitioner is the prevailing party, it shall  
40 be awarded attorney's fees.

1     ~~65476. If a court finds that the housing opportunity plan is~~  
2 ~~not in substantial compliance with the requirements of this~~  
3 ~~article, the court shall retain jurisdiction of the action and issue~~  
4 ~~an order to the jurisdiction to revise the plan for further review~~  
5 ~~by the court within 120 days or a lesser period if the court~~  
6 ~~determines that a lesser period is appropriate. If the court~~  
7 ~~determines that the revised housing opportunity plan is not in~~  
8 ~~substantial compliance with the requirements of this article, the~~  
9 ~~following shall apply:~~

10     ~~(a) The court may impose fines of up to ten thousand dollars~~  
11 ~~(\$10,000) per day. Fines shall not be paid from any funds that are~~  
12 ~~collected or dedicated for affordable housing. Fines shall be~~  
13 ~~transferred to the council of governments for expenditure on~~  
14 ~~affordable housing projects within the region.~~

15     ~~(b) The court shall order the second revised housing~~  
16 ~~opportunity plan to be adopted within 60 days of the~~  
17 ~~determination that the revised housing opportunity plan is not in~~  
18 ~~substantial compliance with the requirements of this article and~~  
19 ~~shall appoint a special master to oversee the adoption by the~~  
20 ~~jurisdiction of the second revised housing opportunity plan. The~~  
21 ~~court's order shall provide the special master with the authority~~  
22 ~~to establish deadlines and shall provide that a jurisdiction's~~  
23 ~~failure to meet a deadline shall result in a fine of ten thousand~~  
24 ~~dollars (\$10,000) per day for each day the deadline is missed.~~  
25 ~~Fines shall not be paid from any funds that are collected or~~  
26 ~~dedicated for affordable housing. Fines shall be transferred to the~~  
27 ~~council of governments for expenditure on affordable housing~~  
28 ~~projects within the region. The court's order shall also authorize~~  
29 ~~the special master to oversee the review and approval of~~  
30 ~~residential projects.~~

31     ~~65477. An action or proceeding brought pursuant to this~~  
32 ~~article shall have precedence over all other civil actions and~~  
33 ~~proceedings in the same manner and to the same extent as~~  
34 ~~provided in subdivision (a) of Section 21167.1 of the Public~~  
35 ~~Resources Code.~~

36     ~~65478. All deadlines specified in this article are mandatory,~~  
37 ~~not directory.~~

38     ~~SEC. 8:~~

39     ~~SEC. 7. Section 65582 of the Government Code is amended~~  
40 ~~to read:~~

1 65582. As used in this article ~~and in Article 9 (commencing~~  
2 ~~with Section 65470)~~, the following terms have the following  
3 meanings:

4 (a) “Community,” “locality,” “local government,” or  
5 “jurisdiction” means a city, city and county, or county, whether  
6 general law or chartered.

7 (b) “Council of governments” means a single or multicounty  
8 council created by a joint powers agreement pursuant to Chapter  
9 5 (commencing with Section 6500) of Division 1 of Title 1.

10 (c) “Department” means the Department of Housing and  
11 Community Development.

12 (d) “Housing element” or “element” means the housing  
13 element of the community’s general plan, as required pursuant to  
14 this article and subdivision (c) of Section 65302.

15 (e) “Regional housing need” means the minimum amount of  
16 housing that shall be accommodated by each local government  
17 ~~on appropriately designated land for a 20-year period~~ including a  
18 10-year projection of housing need to be accommodated in a  
19 housing opportunity plan, as determined pursuant to Sections  
20 65584 and 65584.01.

21 (f) “Very low, low-, and moderate-income households” means  
22 persons and families of very low, low, or moderate incomes, as  
23 defined by Section 50093 of the Health and Safety Code.

24 ~~(g) As used in Section 65584, “taking care of their own” or~~  
25 ~~“taking care of its own” shall mean that each local government~~  
26 ~~shall have an obligation to at least plan to accommodate their~~  
27 ~~own natural population increases and job generation pursuant to~~  
28 ~~Sections 65584 and 65584.01.~~

29 ~~SEC. 9.~~

30 *SEC. 8.* Section 65583 of the Government Code is amended  
31 to read:

32 65583. The housing element shall consist of an identification  
33 and analysis of existing and projected housing needs and a  
34 statement of goals, policies, quantified objectives, financial  
35 resources, and scheduled programs for the preservation,  
36 improvement, and development of housing. The housing element  
37 shall identify adequate sites for housing, including rental  
38 housing, factory-built housing, and mobilehomes, and shall make  
39 adequate provision for the existing and projected needs of all

1 economic segments of the community. The element shall contain  
2 all of the following:

3 (a) A housing opportunity plan adopted pursuant to ~~Article 9~~  
4 ~~(commencing with Section 65470)~~; *this article*.

5 (b) An assessment of housing needs and an inventory of  
6 resources and constraints relevant to the meeting of these needs.

7 The assessment and inventory shall include all of the following:

8 (1) An analysis of population and employment trends and a  
9 quantification of the locality's existing and projected housing  
10 needs for all income levels. These existing and projected needs  
11 shall include the locality's share of the regional housing need in  
12 accordance with Section 65584 and Section 65584.01.

13 (2) An analysis and documentation of household  
14 characteristics, including level of payment compared to ability to  
15 pay, housing characteristics, including overcrowding, and  
16 housing stock condition.

17 (3) An inventory of land suitable for residential development,  
18 including vacant sites and sites having potential for  
19 redevelopment, and an analysis of the relationship of zoning and  
20 public facilities and services to these sites.

21 (4) (A) An analysis of potential and actual governmental  
22 constraints upon the maintenance, improvement, or development  
23 of housing for all income levels and for persons with disabilities  
24 as identified in the analysis pursuant to paragraph (6), including  
25 land use controls, building codes and their enforcement, site  
26 improvements, fees and other exactions required of developers,  
27 and local processing and permit procedures. The analysis shall  
28 also demonstrate local efforts to remove governmental  
29 constraints that hinder the locality from meeting its share of the  
30 regional housing need in accordance with Section 65584 and  
31 from meeting the need for housing for persons with disabilities  
32 identified pursuant to paragraph (5).

33 (B) *The analysis shall include an evaluation of reform to the*  
34 *policies described in paragraphs (6), (10), and (11) of*  
35 *subdivision (d) of Section 65584.04. The policy reform*  
36 *evaluation shall be submitted to all state and local government*  
37 *agencies identified in the evaluation before the community*  
38 *submits its draft housing element to the department pursuant to*  
39 *subdivision (b) of Section 65585. The governing board of the*  
40 *agency whose policies are identified in policy reform evaluation*

1 *shall hold a public hearing on the policy reforms concerning*  
2 *policies it administers and shall provide a report responding to*  
3 *those policy reform recommendations within 90 days after*  
4 *receipt of the policy reform evaluation from the community. The*  
5 *response to the policy reform evaluation shall be included in the*  
6 *materials submitted by the community to the department as part*  
7 *of the review conducted pursuant to subdivision (b) of Section*  
8 *65585.*

9 (5) An analysis of any special housing needs, such as those of  
10 the elderly, persons with disabilities, large families, farmworkers,  
11 families with female heads of households, and families and  
12 persons in need of emergency shelter.

13 (6) An analysis of opportunities for energy conservation with  
14 respect to residential development.

15 (7) An analysis of existing assisted housing developments that  
16 are eligible to change from low-income housing uses during the  
17 next 10 years due to termination of subsidy contracts, mortgage  
18 prepayment, or expiration of restrictions on use. “Assisted  
19 housing developments,” for the purpose of this section, shall  
20 mean multifamily rental housing that receives governmental  
21 assistance under federal programs listed in subdivision (a) of  
22 Section 65863.10, state and local multifamily revenue bond  
23 programs, local redevelopment programs, the federal Community  
24 Development Block Grant Program, or local in-lieu fees.  
25 “Assisted housing developments” shall also include multifamily  
26 rental units that were developed pursuant to a local inclusionary  
27 housing program or used to qualify for a density bonus pursuant  
28 to Section 65916.

29 (A) The analysis shall include a listing of each development  
30 by project name and address, the type of governmental assistance  
31 received, the earliest possible date of change from low-income  
32 use and the total number of elderly and nonelderly units that  
33 could be lost from the locality’s low-income housing stock in  
34 each year during the 10-year period. For purposes of state and  
35 federally funded projects, the analysis required by this  
36 subparagraph need only contain information available on a  
37 statewide basis.

38 (B) The analysis shall identify public and private nonprofit  
39 corporations known to the local government that have legal and

1 managerial capacity to acquire and manage these housing  
2 developments.

3 (c) (1) A statement of the community's goals, quantified  
4 objectives, and policies relative to the maintenance, preservation,  
5 improvement, and development of housing for very low, low-,  
6 and moderate-income households, and for any special housing  
7 needs identified in paragraph (5) of subdivision (b).

8 (2) It is recognized that the total housing needs identified  
9 pursuant to subdivision (a) may exceed available resources and  
10 the community's ability to satisfy this need within the content of  
11 the general plan requirements outlined in Article 5 (commencing  
12 with Section 65300). Under these circumstances, the quantified  
13 objectives need not be identical to the total housing needs. The  
14 quantified objectives shall estimate the maximum number of  
15 housing units for the categories identified in paragraph (1) that  
16 can be constructed, rehabilitated, and conserved over a five-year  
17 time period.

18 (d) A program that sets forth a five-year schedule of actions  
19 the local government is undertaking or intends to undertake to  
20 implement the policies and achieve the goals and objectives of  
21 the housing element through the administration of land use and  
22 development controls, provision of regulatory concessions and  
23 incentives, and the utilization of appropriate federal and state  
24 financing and subsidy programs, when available, and the  
25 utilization of moneys in a low- and moderate-income housing  
26 fund of an agency if the locality has established a redevelopment  
27 project area pursuant to the Community Redevelopment Law  
28 (Division 24 (commencing with Section 33000) of the Health and  
29 Safety Code). In order to make adequate provision for the  
30 housing needs of all economic segments of the community, the  
31 program shall do all of the following:

32 (1) (A) Identify sites to facilitate and encourage the  
33 development of a variety of types of housing for all income  
34 levels, including multifamily rental housing, factory-built  
35 housing, manufactured homes, housing for agricultural  
36 employees, emergency shelters, and transitional housing.

37 (B) Identify policies and incentives to promote infill  
38 development and the efficient use of land, including, but not  
39 limited to, expedited permit processing, modified development  
40 standards, and fee waivers.

(C) When the inventory of sites pursuant to paragraph (3) of subdivision (b) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (7) of subdivision (b).

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

~~SEC. 10.~~

*SEC. 9.* Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (b) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory

1 can accommodate some portion of its share of the regional  
2 housing need by income level during the planning period, as  
3 determined pursuant to Section 65584. The analysis shall  
4 determine whether the inventory can provide for a variety of  
5 types of housing, including multifamily rental housing,  
6 factory-built housing, mobilehomes, housing for agricultural  
7 employees, emergency shelters, and transitional housing. The  
8 city or county shall determine the number of housing units that  
9 can be accommodated on each site as follows:

10 (1) For a site within a housing opportunity plan, the total  
11 housing unit capacity on that site shall be based on the  
12 established minimum density.

13 (2) For a site not within a housing opportunity plan, if local  
14 law or regulations require the development of a site at a  
15 minimum density, the total housing unit capacity on that site  
16 shall be based on the established minimum density. If the city or  
17 county does not adopt a law or regulations requiring the  
18 development of a site at a minimum density, then it shall  
19 demonstrate how the number of units determined for that site  
20 pursuant to this subdivision will be accommodated.

21 (3) The number of units calculated pursuant to paragraph (2)  
22 shall be adjusted as necessary, based on the land use controls and  
23 site improvements requirement identified in paragraph (4) of  
24 subdivision (b) of Section 65583.

25 (d) The following densities shall be deemed appropriate to  
26 accommodate housing for lower income households:

27 (1) For incorporated cities within nonmetropolitan counties  
28 and for nonmetropolitan counties that have micropolitan areas:  
29 sites allowing at least 15 units per acre.

30 (2) For unincorporated areas in all nonmetropolitan counties  
31 not included in paragraph (1): sites allowing at least 10 units per  
32 acre.

33 (3) For suburban jurisdictions: sites allowing at least 20 units  
34 per acre.

35 (4) For jurisdictions in metropolitan counties: sites allowing at  
36 least 30 units per acre.

37 (e) For purposes of this section, metropolitan counties,  
38 nonmetropolitan counties, and nonmetropolitan counties with  
39 micropolitan areas are as determined by the United States Census  
40 Bureau. Nonmetropolitan counties with micropolitan areas

1 include the following counties: Del Norte, Humboldt, Lake  
2 Mendocino, Nevada, Tehama, and Tuolumne and other counties  
3 as may be determined by the United States Census Bureau to be  
4 nonmetropolitan counties with micropolitan areas in the future.

5 (f) A jurisdiction is considered suburban if the jurisdiction  
6 does not meet the requirements of paragraphs (1) and (2) of  
7 subdivision (d) and is located in a Metropolitan Statistical Area  
8 (MSA) of less than 2,000,000 in population, unless that  
9 jurisdiction's population is greater than 100,000, in which case it  
10 is considered metropolitan. Counties, not including the City and  
11 County of San Francisco, will be considered suburban unless  
12 they are in a MSA of 2,000,000 or greater in population in which  
13 case they are considered metropolitan.

14 (g) A jurisdiction is considered metropolitan if the jurisdiction  
15 does not meet the requirements for "suburban area" above and is  
16 located in a MSA of 2,000,000 or greater in population, unless  
17 that jurisdiction's population is less than 25,000 in which case it  
18 is considered suburban.

19 (h) For purposes of this section and Section 65583, the phrase  
20 "use by right" shall mean that the local government's review of  
21 the owner-occupied or multifamily residential use may not  
22 require a conditional use permit, planned unit development  
23 permit, or other discretionary local government review or  
24 approval that would constitute a "project" for purposes of  
25 Division 13 (commencing with Section 21100) of the Public  
26 Resources Code. Any subdivision of the sites shall be subject to  
27 all laws, including, but not limited to, the local government  
28 ordinance implementing the Subdivision Map Act. A local  
29 ordinance may provide that "use by right" does not exempt the  
30 use from design review. However, that design review shall not  
31 constitute a "project" for purposes of Division 13 (commencing  
32 with Section 21100) of the Public Resources Code. Use by right  
33 for all rental multifamily residential housing shall be provided in  
34 accordance with subdivision (f) of Section 65589.5.

35 *SEC. 10. Section 65583.3 is added to the Government Code,*  
36 *to read:*

37 *65583.3. At the time the local government revises its housing*  
38 *element pursuant to subdivision (c) of Section 65588, each city*  
39 *council and board of supervisors shall adopt a housing*  
40 *opportunity plan as part of the housing element. Notwithstanding*

1 any other provision of law, including Sections 65583 and  
2 65583.2, the housing opportunity plan and all of its required  
3 parts shall be adopted and in effect on the same date the housing  
4 element is revised.

5 SEC. 11. Section 65583.4 is added to the Government Code,  
6 to read:

7 65583.4. (a) The housing opportunity plan shall, upon  
8 adoption, do all of the following:

9 (1) Include a map or other description outlining the area or  
10 areas covered by the plan.

11 (2) Include a land use program that includes the distribution,  
12 location, and extent of uses of the land within the area covered  
13 by the plan.

14 (3) From the sites identified pursuant to subdivision (a) of  
15 Section 65583.2, designate and zone adequate sites for  
16 residential use to accommodate the jurisdiction's 10-year  
17 housing need allocated pursuant to Sections 65584 and 65584.01  
18 (housing opportunity sites). The local government's obligation to  
19 zone adequate sites to accommodate its share of the region's  
20 10-year housing need for very low, low-, and moderate-income  
21 households shall be satisfied by zoning sites to allow the  
22 specified minimum number of units per acre, as identified in  
23 subdivision (d) of Section 65583.2. Development of an affordable  
24 housing project on a site zoned to allow a specified minimum  
25 number of units per acre, as identified in subdivision (d) of  
26 Section 65583.2, shall be by right, as defined in subdivision (h)  
27 of Section 65583.2.

28 (A) The designation and zoning for a housing opportunity site  
29 shall establish and allow development of a minimum and  
30 maximum density range.

31 (B) The city council or board of supervisors shall make a  
32 finding, supported by substantial evidence in the record, that  
33 each housing opportunity site is adequate for construction of the  
34 maximum number of units allowed by the density range  
35 applicable to the site. A finding of adequacy shall be based on a  
36 showing that the site is appropriate in terms of size,  
37 configuration, physical characteristics, current use, physical and  
38 environmental constraints, access, location, adjacent use, market  
39 factors, current or planned availability of infrastructure and  
40 services, and other relevant planning criteria.

1 (C) In the performance of their functions under this article,  
2 planning agency personnel may enter upon any land and make  
3 examinations and surveys, provided that the entries,  
4 examinations, and surveys do not interfere with the use of the  
5 land by those persons lawfully entitled to possession thereof.

6 (4) Include residential design and landscape architecture  
7 guidelines that permit the construction of the maximum number  
8 of units allowed by the density range applicable to the housing  
9 opportunity site.

10 (5) Include an infrastructure plan that shows the proposed  
11 distribution, location, extent, and intensity of the major  
12 components of the public and private transportation, sewage,  
13 water, drainage, solid waste disposal, energy, and other essential  
14 facilities and services proposed to be located within the area  
15 covered by the plan and needed to support the land uses  
16 described in the plan.

17 (6) Describe how the construction and maintenance of public  
18 infrastructure and the provision of public services identified in  
19 paragraph (5) will be funded.

20 (7) Include a program of implementation measures including  
21 property development standards, regulations, criteria, and other  
22 measures necessary to carry out the plan. The implementation  
23 measures shall permit the construction of the maximum number  
24 of units allowed by the density range applicable to the housing  
25 opportunity site. The implementation measures shall advance the  
26 policies and incentives regarding infill development and the  
27 efficient use of land identified in subparagraph (B) of paragraph  
28 (1) of subdivision (d) of Section 65583.

29 (8) In determining which sites to designate as housing  
30 opportunity sites, the city council or board of supervisors shall  
31 consider the goals and objectives of the other elements of the  
32 general plan, including the conservation and open space  
33 elements.

34 (b) A housing opportunity plan may apply the design and  
35 architecture guidelines and implementation measures, including  
36 property development standards, regulations, criteria, and other  
37 measures necessary to carry out the plan, on an areawide or  
38 site-specific basis.

39 (c) The housing opportunity plan may address any other  
40 subjects that in the judgment of the planning agency are

1 *necessary or desirable for implementation of the plan, including*  
2 *policy reforms that may be recommended for adoption by other*  
3 *local government agencies having jurisdiction over lands*  
4 *identified pursuant to paragraph (3) of subdivision (b) of Section*  
5 *65583 to facilitate the inclusion of such lands in updated housing*  
6 *opportunity plans.*

7 *(d) Not later than five years after the initial adoption of the*  
8 *housing opportunity plan, and every five years thereafter, the city*  
9 *council or board of supervisors shall complete a review and*  
10 *update of the housing opportunity plan. As part of the five-year*  
11 *review, the city council or board of supervisors shall make any*  
12 *necessary amendments to ensure that the housing opportunity*  
13 *plan complies with the requirements of this section, including*  
14 *amendments and findings of adequacy to ensure that the housing*  
15 *opportunity plan designates and zones, at a minimum, adequate*  
16 *sites for residential use to accommodate the jurisdiction's*  
17 *housing need for the next 10-year period allocated to the*  
18 *jurisdiction by the council of governments.*

19 *SEC. 12. Section 65583.5 is added to the Government Code,*  
20 *to read:*

21 *65583.5. (a) In addition to the notice and hearing*  
22 *requirements that apply to the adoption of a mandatory element*  
23 *of a general plan, when a jurisdiction adopts its initial housing*  
24 *opportunity plan and when it undertakes the mandatory five-year*  
25 *review, it shall follow these procedures:*

26 *(1) The city council or board of supervisors shall appoint a*  
27 *community advisory committee to provide citizen input. The*  
28 *legislative body shall, by resolution, adopt a procedure for the*  
29 *formation of the community advisory committee. The procedure*  
30 *shall include all of the following:*

31 *(A) Publishing notice in a newspaper of general circulation of*  
32 *the opportunity to serve on the community advisory committee at*  
33 *least 30 days prior to the formation of the community advisory*  
34 *committee.*

35 *(B) The city council or board of supervisors shall conduct a*  
36 *minimum of one public meeting to explain the establishment of,*  
37 *functions of, and opportunity to serve on, the community advisory*  
38 *committee.*

39 *(C) The city council or board of supervisors shall make a*  
40 *diligent effort to ensure that all economic segments of the*

1 community are represented on the community advisory  
2 committee.

3 (2) One or more community forums shall be held. Notice shall  
4 be provided to all persons attending the community forums of  
5 subsequent consideration of the plan.

6 (3) On or before six months prior to the first planning  
7 commission hearing, a statement of preparation shall be  
8 published in a newspaper of general circulation, mailed to all  
9 property owners whose property is proposed for inclusion in the  
10 housing opportunity plan, all property owners living within 500  
11 feet of the boundaries of the housing opportunity plan, all  
12 homeowners associations within the boundaries of the housing  
13 opportunity plan, and all persons requesting notice of the  
14 planning actions of the jurisdiction.

15 (4) Compliance with the referral requirements of Section  
16 65352.

17 (b) The city council or board of supervisors shall make a  
18 diligent effort to work cooperatively with the property owners or  
19 their representatives whose property is proposed for inclusion in  
20 the housing opportunity plan. If a property owner or its  
21 representative objects to its property being included in the  
22 housing opportunity plan or to the planning and zoning  
23 designations proposed for the property, before making a final  
24 decision the city council or board of supervisors shall provide a  
25 written response to the objection specifying the reasons for  
26 including the property and for planning and zoning the property  
27 as proposed.

28 (c) Within 30 days after adoption, the jurisdiction shall mail  
29 notice to all property owners of lands within one-quarter mile of  
30 the exterior boundary of each area included within the plan. The  
31 jurisdiction shall adopt a local disclosure statement that requires  
32 all purchasers of land within one-quarter mile of the exterior  
33 boundary of each area included within the plan to be notified of  
34 the plan and how to obtain a copy of the plan.

35 SEC. 13. Section 65583.6 is added to the Government Code,  
36 to read:

37 65583.6. (a) Any approval sought in connection with a  
38 residential project that is consistent with the housing opportunity  
39 plan shall be subject to the Permit Streamlining Act (Chapter 4.5  
40 (commencing with Section 65920)).

1     **(b) (1)** Any approval sought in connection with a residential  
2 project that is consistent with the housing opportunity plan shall  
3 not be denied or conditioned on reducing the residential  
4 project's density below that proposed by the applicant unless by  
5 four-fifths vote, the legislative body makes written findings  
6 pursuant to subdivision (j) of Section 65589.5. For purposes of  
7 this section, an abstention shall not count as an affirmative vote  
8 for purposes of satisfying the four-fifths vote requirement.

9     **(2)** An action or proceeding by a project applicant alleging  
10 that the legislative body has denied or conditioned a residential  
11 project in violation of this subdivision shall be commenced and  
12 the public agency served within 60 days of the public agency's  
13 decision.

14     **(3)** Nothing in this subdivision shall preclude the local  
15 jurisdiction from imposing an otherwise lawful condition,  
16 including the payment of fees, on the residential project.

17     **(c) (1)** Except as provided in paragraph (2), for the first five  
18 years that a site is within the housing opportunity plan, the  
19 provisions of the housing opportunity plan applicable to that site  
20 may not be amended except by a four-fifths vote of the legislative  
21 body after making written findings pursuant to subdivision (j) of  
22 Section 65589.5. If the amendment would result in the housing  
23 opportunity plan not containing adequate sites to accommodate  
24 the 10-year housing need requirement, the jurisdiction shall add  
25 adequate sites to the housing opportunity plan so that there is no  
26 net loss of residential density. An action or proceeding alleging  
27 that the legislative body has amended the housing opportunity  
28 plan in violation of this paragraph shall be commenced, and the  
29 public agency served, within 60 days.

30     **(2)** At any time, if the owner of a site within the housing  
31 opportunity plan or a project applicant and the local jurisdiction  
32 agree that a particular amendment is appropriate and in the  
33 public interest, the city council or board of supervisors has  
34 discretion to approve the amendment by majority vote without  
35 making a health and safety finding, subject to compliance with  
36 paragraph (3).

37     **(3)** If the proposed amendment would result in a reduction in  
38 density below the established minimum density for a site within  
39 the housing opportunity plan and would result in the remaining  
40 sites not being adequate to accommodate the 10-year housing

1 *need requirement, the jurisdiction may reduce the density below*  
2 *the established minimum density on that site if it adds adequate*  
3 *sites to the housing opportunity plan so that there is no net loss*  
4 *of residential density.*

5 *(d) (1) Except as provided in paragraph (2), or as may be*  
6 *limited or prohibited by another provision of law such as the*  
7 *existence of a development agreement or vesting tentative map,*  
8 *after a site has been in the housing opportunity plan for more*  
9 *than five years, the provisions of the plan applicable to that site*  
10 *may be amended by majority vote of the legislative body and*  
11 *without making a health and safety finding. If the amendment*  
12 *would result in the remaining sites not being adequate to*  
13 *accommodate the 10-year housing need requirement, the*  
14 *jurisdiction shall add adequate sites to the housing opportunity*  
15 *plan so that there is no net loss of residential density.*

16 *(2) When a complete application has been submitted to*  
17 *develop a residential project, or a project applicant has*  
18 *submitted a letter of intent to develop a residential project, within*  
19 *the housing opportunity plan to the local jurisdiction and*  
20 *expended the amount specified in Section 66452.6 in preproject*  
21 *expenditures, those parts of the plan applicable to the residential*  
22 *project may not be amended except by four-fifths vote of the*  
23 *legislative body after making written findings pursuant to*  
24 *subdivision (j) of Section 65589.5. A letter of intent to develop*  
25 *shall cease to have effect under this paragraph if a project*  
26 *application is not submitted within three years after the letter of*  
27 *intent is filed.*

28 *(3) An action or proceeding alleging that the legislative body*  
29 *has amended the housing opportunity plan in violation of*  
30 *paragraph (2) shall be commenced, and the public agency*  
31 *served, within 60 days of the public agency's decision.*

32 *(e) For purposes of this section and Section 65583.7,*  
33 *“residential project,” includes a mixed-use development*  
34 *consisting of residential and nonresidential uses in which*  
35 *nonresidential uses are limited to neighborhood commercial uses*  
36 *and to the first floor of buildings that are two or more stories if*  
37 *the nonresidential uses are approved by the local agency in*  
38 *accordance with its review process for mixed-use development.*  
39 *For purposes of this subdivision, “neighborhood commercial”*

1 *means small-scale general or specialty stores that furnish goods*  
2 *or services primarily to residents of the neighborhood.*

3 *SEC. 14. Section 65583.7 is added to the Government Code,*  
4 *to read:*

5 *65583.7. (a) When a public agency has prepared an*  
6 *environmental impact report on a housing opportunity plan, any*  
7 *residential project that is undertaken to implement and is*  
8 *consistent with the housing opportunity plan is exempt from the*  
9 *requirements of the California Environmental Quality Act*  
10 *(Division 13 (commencing with Section 21000) of the Public*  
11 *Resources Code), subject to subdivision (b).*

12 *(b) If after the adoption of the housing opportunity plan the*  
13 *lead agency determines, on the basis of substantial evidence in*  
14 *the light of the whole record, that one or more of the events*  
15 *specified in paragraphs (1) to (3), inclusive, occurs, the*  
16 *exemption in subdivision (a) does not apply unless and until a*  
17 *supplemental environmental impact report for the housing*  
18 *opportunity plan is prepared and certified.*

19 *(1) Substantial changes are proposed in the project that will*  
20 *require major revisions of the previous environmental impact*  
21 *report due to the involvement of new significant environmental*  
22 *effects or a substantial increase in the severity of previously*  
23 *identified significant effects.*

24 *(2) Substantial changes occur with respect to the*  
25 *circumstances under which the project is undertaken that will*  
26 *require major revisions of the previous environmental impact*  
27 *report due to the involvement of new significant environmental*  
28 *effects or a substantial increase in the severity of previously*  
29 *identified significant effects.*

30 *(3) New information of substantial importance, that was not*  
31 *known and could not have been known with the exercise of*  
32 *reasonable diligence at the time the previous environmental*  
33 *impact report was certified as complete or that shows any of the*  
34 *following:*

35 *(A) The project will have one or more significant effects not*  
36 *discussed in the previous environmental impact report.*

37 *(B) Significant effects previously examined will be*  
38 *substantially more severe than shown in the previous*  
39 *environmental impact report.*

1     (C) Mitigation measures or alternatives previously found not  
2     to be feasible would in fact be feasible, and would substantially  
3     reduce one or more significant effects of the project, but the  
4     project proponents decline to adopt the mitigation measure or  
5     alternative.

6     (D) Mitigation measures or alternatives that are considerably  
7     different from those analyzed in the previous environmental  
8     impact report would substantially reduce one or more significant  
9     effects on the environment, but the project proponents decline to  
10    adopt the mitigation measure or alternative.

11    (c) After a supplemental environmental impact report is  
12    certified, the exemption specified in subdivision (a) applies to  
13    residential projects undertaken pursuant to the housing  
14    opportunity plan.

15    (d) An action or proceeding alleging that a public agency has  
16    approved a residential project pursuant to a housing opportunity  
17    plan without having previously certified a supplemental  
18    environmental impact report for the housing opportunity plan  
19    where required by subdivision (b), shall be commenced and the  
20    public agency served within 30 days of the public agency's  
21    decision to approve the residential project.

22    (e) Nothing in this section shall limit a project or site's  
23    eligibility for exemption from the requirements of the California  
24    Environmental Quality Act (Division 13 (commencing with  
25    Section 21000) of the Public Resources Code) under any other  
26    law or regulation.

27    SEC. 15. Section 65583.8 is added to the Government Code,  
28    to read:

29    65583.8. (a) When a local jurisdiction fails to adopt the  
30    housing opportunity plan by the required deadline, or fails to  
31    adopt an amendment required as part of a five-year review by the  
32    required deadline, at any time before the local jurisdiction  
33    adopts the plan or amendment, the Attorney General or any  
34    person may bring an action to require adoption of the plan or  
35    amendment. If the court finds in the plaintiff or petitioner's favor,  
36    it shall promptly issue an order requiring the jurisdiction to  
37    adopt the plan or amendment within 90 days of the date of the  
38    order.

39    (b) If the action is brought more than 90 days after the  
40    deadline and the court finds in the plaintiff or petitioner's favor,

1 the court order shall also appoint a special master to oversee the  
2 adoption of the plan or amendment by the jurisdiction. The order  
3 shall provide the special master with the authority to establish  
4 progress deadlines within the 90-day period described in  
5 subdivision (a) and shall provide that a jurisdiction's failure to  
6 meet a deadline shall result in a fine of ten thousand dollars  
7 (\$10,000) per day for each day the deadline is missed. Fines  
8 shall not be paid from any funds that are collected or dedicated  
9 for affordable housing. Fines shall be transferred to the council  
10 of governments and made available for expenditure on  
11 affordable housing projects within the region. The court's order  
12 shall also authorize the special master to oversee the review and  
13 approval of residential projects.

14 (c) If the plaintiff or petitioner is the prevailing party, it shall  
15 be awarded attorney's fees.

16 SEC. 16. Section 65583.9 is added to the Government Code,  
17 to read:

18 65583.9. If a court finds that the housing opportunity plan is  
19 not in substantial compliance with the requirements of this  
20 article, the court shall retain jurisdiction of the action and issue  
21 an order to the jurisdiction to revise the plan for further review  
22 by the court within 120 days or a lesser period if the court  
23 determines that a lesser period is appropriate. If the court  
24 determines that the revised housing opportunity plan is not in  
25 substantial compliance with the requirements of this article, the  
26 following shall apply:

27 (a) The court may impose fines of up to ten thousand dollars  
28 (\$10,000) per day. Fines shall not be paid from any funds that  
29 are collected or dedicated for affordable housing. Fines shall be  
30 transferred to the council of governments for expenditure on  
31 affordable housing projects within the region.

32 (b) The court shall order the second revised housing  
33 opportunity plan to be adopted within 60 days of the  
34 determination that the revised housing opportunity plan is not in  
35 substantial compliance with the requirements of this article and  
36 shall appoint a special master to oversee the adoption by the  
37 jurisdiction of the second revised housing opportunity plan. The  
38 court's order shall provide the special master with the authority  
39 to establish deadlines and shall provide that a jurisdiction's  
40 failure to meet a deadline shall result in a fine of ten thousand

1 dollars (\$10,000) per day for each day the deadline is missed.  
2 Fines shall not be paid from any funds that are collected or  
3 dedicated for affordable housing. Fines shall be transferred to  
4 the council of governments for expenditure on affordable housing  
5 projects within the region. The court's order shall also authorize  
6 the special master to oversee the review and approval of  
7 residential projects.

8 SEC. 17. Section 65583.10 is added to the Government Code,  
9 to read:

10 65583.10. All deadlines specified in this article are  
11 mandatory, not directory.

12 SEC. 18. Section 65583.11 is added to the Government Code,  
13 to read:

14 65583.11. Nothing in this article shall be interpreted to affect  
15 existing law with respect to the planning, use, or development of  
16 areas outside a housing opportunity plan or to establish any  
17 presumption regarding the appropriate designation or use of  
18 areas outside a housing opportunity plan.

19 SEC. 19. Section 65583.12 is added to the Government Code,  
20 to read:

21 65583.12. Nothing in this article shall be interpreted to affect  
22 existing law with respect to the ability to bring an action  
23 pursuant to subdivision (d) of Section 65009.

24 ~~SEC. 11.~~

25 SEC. 20. Section 65584 of the Government Code is amended  
26 to read:

27 65584. (a) (1) For the next revision of the housing element  
28 pursuant to Section 65588, and each revision thereafter, each  
29 local government shall amend its general plan to accommodate  
30 its share of the regional housing need determined pursuant to this  
31 section and Section ~~65584.01~~, and to ensure each local  
32 government is responsible for at least planning to take care of its  
33 own. Amendment of the general plan for this purpose shall  
34 include the housing and land use elements in particular, and shall  
35 designate sufficient land for residential use with capacity for  
36 development of housing adequate to accommodate projected  
37 population and employment growth for a period of 20 years and  
38 to accommodate a projected need for housing development for  
39 not less than 10 years within a housing opportunity plan. For  
40 65584.01. For purposes of subdivision (b) of Section 65583, the

1 share of a city or county of the regional housing need shall  
2 include that share of the housing need of persons at all income  
3 levels within the area significantly affected by the general plan of  
4 the city or county.

5 (2) While it is the intent of the Legislature that cities, counties,  
6 and cities and counties should undertake all necessary actions to  
7 encourage, promote, and facilitate the development of housing to  
8 accommodate the entire regional housing need, it is recognized,  
9 however, that future housing production may not equal the  
10 regional housing need established for planning purposes.

11 (b) The share of the regional housing needs for the cities and  
12 counties within each region shall be set forth in a regional  
13 housing needs allocation plan adopted by the appropriate council  
14 of governments. The total regional housing need for each region  
15 shall be subject to the review process established by Section  
16 65584.01. Each council of governments, in consultation with its  
17 local government members, shall determine each region's  
18 existing and projected housing need pursuant to Section  
19 65584.01 at least two years prior to the scheduled revision  
20 required pursuant to Section 65588. The appropriate council of  
21 governments, or for cities and counties without a council of  
22 governments, the department, shall adopt a final regional housing  
23 need plan that allocates a share of the regional housing need to  
24 each city, county, or city and county at least one year prior to the  
25 scheduled revision for the region required by Section 65588. The  
26 allocation plan prepared by a council of governments shall be  
27 prepared pursuant to Sections 65584.04 and 65584.05 with the  
28 advice of the department.

29 (c) Notwithstanding any other provision of law, the due dates  
30 for the determinations of the department or for the councils of  
31 governments, respectively, regarding the regional housing need  
32 may be extended by the department by not more than 60 days if  
33 the extension will enable access to more recent critical  
34 population or housing data from a pending or recent release of  
35 the United States Census Bureau or the Department of Finance. If  
36 the due date for the determination of the department or the  
37 council of governments is extended for this reason, the  
38 department shall extend the corresponding housing element  
39 revision deadline pursuant to Section 65588 by not more than 60  
40 days.

(d) The regional housing needs allocation plan shall be developed using a transparent planning process that ensures opportunity for public participation and adequate notice of determination of projected housing need. To promote higher density development and satisfy the need for zoning sufficient land to accommodate the housing needs of very low, low-, and moderate-income households, the regional housing needs allocation plan shall require that at least 40 percent of the site capacity identified to address the region's overall 10-year housing need shall be accommodated on sites zoned to allow a specified minimum number of units per acre as identified in subdivision (d) of Section 65583.2. The council of governments shall determine and allocate each individual jurisdiction's share of this requirement.

(e) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

(3) Promoting an improved intraregional relationship between jobs and housing.

~~(4) Establishing an obligation that each local government at least plan to take care of its own, as defined in subdivision (g) of Section 65582.~~

~~(5)~~

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.

(f) The regional housing need shall accommodate projected population and employment growth for a period of 10-and-20 years. For the first 10 years, commencing January 1, 2007, job projections may not be reduced for any local government from

1 the most recent local and regional plan or report. ~~The regional~~  
2 ~~housing needs allocation process shall establish mechanisms to~~  
3 ~~allow interjurisdictional agreements to transfer obligations for~~  
4 ~~accommodating regional housing needs between neighboring~~  
5 ~~jurisdictions.~~

6 (g) The regional housing needs established by this section and  
7 Section 65584.01 shall constitute the minimum housing need for  
8 the planning period. However, nothing in this section shall be  
9 construed to prohibit a local government from planning to  
10 accommodate more housing and jobs consistent with other  
11 planning goals and objectives.

12 (h) For purposes of this section, “household income levels” are  
13 as determined by the department as of the most recent decennial  
14 census pursuant to the following code sections:

15 (1) Very low incomes, as defined by Section 50105 of the  
16 Health and Safety Code.

17 (2) Lower incomes, as defined by Section 50079.5 of the  
18 Health and Safety Code.

19 (3) Moderate incomes, as defined by Section 50093 of the  
20 Health and Safety Code.

21 (4) Above moderate incomes are those exceeding the moderate  
22 income level of Section 50093 of the Health and Safety Code.

23 (i) Notwithstanding any other provision of law, determinations  
24 made by the department, a council of governments, or a city or  
25 county pursuant to this section or Section 65584.01, 65584.02,  
26 65584.03, 65584.04, 65584.05, 65584.06, or 65584.07 are  
27 exempt from the California Environmental Quality Act (Division  
28 13 (commencing with Section 21000) of the Public Resources  
29 Code).

30 ~~SEC. 12.~~

31 *SEC. 21.* Section 65584.01 of the Government Code is  
32 amended to read:

33 65584.01. (a) For the next revision of the housing element  
34 pursuant to Section 65588, each council of governments and the  
35 department, for regions without a council of governments, shall  
36 determine the existing and projected need for housing for each  
37 region in the following manner:

38 (b) The council of governments’ determination shall be based  
39 upon population projections produced by the Department of  
40 Finance and regional population forecasts used in preparing its

1 regional transportation plans. The council of governments shall  
2 submit its population forecast to a demographic data review  
3 panel that shall consist of representatives of the Department of  
4 Finance, the department, the Governor's Office of Planning and  
5 Research, and the Employment Development Department for  
6 review and comment. If, after taking into consideration the  
7 comments of the demographic data review panel, the total  
8 regional population forecast for the planning period, developed  
9 by the council of governments, is within a range of 4 percent of  
10 the total regional population forecast for the planning period over  
11 the same time period by the Department of Finance, then the  
12 population forecast developed by the council of governments  
13 shall be the basis from which the existing and projected need for  
14 housing in the region is determined. If the difference between the  
15 total population growth projected by the council of governments  
16 and the total population growth projected for the region by the  
17 Department of Finance is greater than 4 percent, then the  
18 demographic data review panel and the council of governments  
19 shall meet to discuss variances in methodology used for  
20 population projections and seek agreement on a population  
21 projection for the region to be used as a basis for determining the  
22 existing and projected housing need for the region. If no  
23 agreement is reached, then the population projection for the  
24 region shall be the population projection for the region prepared  
25 by the Department of Finance as may be modified by the  
26 department as a result of discussions with the council of  
27 governments.

28 (c) (1) At least 26 months prior to the scheduled revision  
29 pursuant to Section 65588 and prior to developing the existing  
30 and projected housing need for a region, each council of  
31 governments shall meet and consult with the department  
32 regarding the assumptions and methodology to be used to  
33 determine the region's existing and projected housing needs. The  
34 council of governments shall provide data assumptions proposed  
35 to be used for the council's projections of the total regional  
36 housing need, including, if available, the following data for the  
37 region:

38 (A) Anticipated household growth associated with projected  
39 population increases.

40 (B) Household size data and trends in household size.

1 (C) The rate of household formation, or headship rates, based  
2 on age, gender, ethnicity, or other established demographic  
3 measures.

4 (D) The vacancy rates in existing housing stock, and the  
5 vacancy rates for healthy housing market functioning and  
6 regional mobility, as well as housing replacement needs.

7 (E) Other characteristics of the composition of the projected  
8 population.

9 (2) After consultation with the department, the council of  
10 governments shall make determinations in writing on the  
11 assumptions for each of the factors listed in subparagraphs (A) to  
12 (E), inclusive, of paragraph (1) and the methodology it shall use  
13 and shall provide these determinations to the department.

14 (d) (1) The council of governments shall make a  
15 determination of the region's existing and projected housing need  
16 based upon the assumptions and methodology determined  
17 pursuant to subdivision (c). The council of governments shall  
18 submit its determination to the department. Within 45 days of the  
19 submittal, the department shall provide comments, including any  
20 objections, to the council of governments.

21 (2) The objection shall be based on and substantiate either of  
22 the following:

23 (A) The council of governments failed to base its  
24 determination on the population projection for the region  
25 established pursuant to subdivision (b), and shall identify the  
26 population projection that the council of governments believes  
27 should instead be used for the determination and explain the  
28 basis for its rationale.

29 (B) The regional housing need determined by the council of  
30 governments is not a reasonable application of the methodology  
31 and assumptions determined pursuant to subdivision (c). The  
32 objection shall include a proposed alternative determination of  
33 the regional housing need based upon the determinations made in  
34 subdivision (c), including analysis of why the proposed  
35 alternative would be a more reasonable application of the  
36 methodology and assumptions determined pursuant to  
37 subdivision (c).

38 (3) If the department files an objection pursuant to this  
39 subdivision and includes with the objection a proposed  
40 alternative determination of its regional housing need, it shall

1 also include documentation of its basis for the alternative  
2 determination. Within 45 days of receiving an objection filed  
3 pursuant to this section, the council of governments and the  
4 department shall meet to attempt to reconcile their differences  
5 during a 30-day period. If no agreement is reached, then the  
6 matter shall be submitted to arbitration by an academic  
7 demographer appointed by the Department of Finance within 30  
8 days. The arbitrator shall meet with the parties and within 45  
9 days review all relevant data and issue a final housing needs  
10 determination for the region that shall carry the presumption of  
11 validity in any court action. Any challenge to the determination  
12 must be made within 45 days.

13 ~~SEC. 13.~~

14 *SEC. 22.* Section 65584.02 of the Government Code is  
15 amended to read:

16 65584.02. (a) For the fourth and subsequent revisions of the  
17 housing element pursuant to Section 65588, the existing and  
18 projected need for housing may be determined for each region as  
19 follows, as an alternative to the process pursuant to Section  
20 65584.01:

21 (1) In a region in which at least one subregion has accepted  
22 delegated authority pursuant to Section 65584.03, the region's  
23 housing need shall be determined at least 26 months prior to the  
24 housing element update deadline pursuant to Section 65588. In a  
25 region in which no subregion has accepted delegation pursuant to  
26 Section 65584.03, the region's housing need shall be determined  
27 at least 24 months prior to the housing element deadline.

28 (2) At least six months prior to the department's determination  
29 of regional housing need pursuant to paragraph (1), a council of  
30 governments may request the use of population and household  
31 forecast assumptions used in the regional transportation plan. For  
32 a housing element update due date pursuant to Section 65588 that  
33 is prior to January 2007, the department may approve a request  
34 that is submitted prior to December 31, 2004, notwithstanding  
35 the deadline in this paragraph. This request shall include all of  
36 the following:

37 (A) Proposed data and assumptions for factors contributing to  
38 housing need beyond household growth identified in the forecast.  
39 These factors shall include allowance for vacant or replacement  
40 units, and may include other adjustment factors.

1 (B) A proposed planning period that is not longer than the  
2 period of time covered by the regional transportation  
3 improvement plan or plans of the region pursuant to Section  
4 14527, consistent with the ~~10- and 20-year~~ projections required  
5 by Section 65584.

6 (C) A comparison between the population and household  
7 assumptions used for the Regional Transportation Plan with  
8 population and household estimates and projections of the  
9 Department of Finance.

10 The council of governments may include a request to extend  
11 the housing element deadline pursuant to Section 65588 to a date  
12 not to exceed two years, for the purpose of coordination with the  
13 scheduled update of a regional transportation plan pursuant to  
14 federal law.

15 (b) The department shall consult with the council of  
16 governments regarding requests submitted pursuant to paragraph  
17 (2) of subdivision (a). The department may seek advice and  
18 consult with the Demographic Research Unit of the Department  
19 of Finance, the State Department of Transportation, a  
20 representative of a contiguous council of governments, and any  
21 other party as deemed necessary. The department may request  
22 that the council of governments revise data, assumptions, or  
23 methodology to be used for the determination of regional housing  
24 need, or may reject the request submitted pursuant to paragraph  
25 (2) of subdivision (a). Subsequent to consultation with the  
26 council of governments, the department will respond in writing  
27 to requests submitted pursuant to paragraph (1) of subdivision  
28 (a).

29 (c) If the council of governments does not submit a request  
30 pursuant to subdivision (a), or if the department rejects the  
31 request of the council of governments, the determination for the  
32 region shall be made pursuant to Sections 65584 and 65584.01.

33 ~~SEC. 14.~~

34 *SEC. 23.* Section 65584.04 of the Government Code is  
35 amended to read:

36 65584.04. (a) At least two years prior to a scheduled revision  
37 required by Section 65588, each council of governments, or  
38 delegate subregion as applicable, shall develop a proposed  
39 methodology for distributing the existing and projected regional  
40 housing need to cities, counties, and cities and counties within

1 the region or within the subregion, where applicable pursuant to  
2 this section. The methodology shall be consistent with the  
3 objectives listed in subdivision (e) of Section 65584.

4 (b) (1) No more than six months prior to the development of a  
5 proposed methodology for distributing the existing and projected  
6 housing need, each council of governments shall survey each of  
7 its member jurisdictions to request, at a minimum, information  
8 regarding the factors listed in subdivision (d) that will allow the  
9 development of a methodology based upon the factors  
10 established in subdivision (d).

11 (2) The council of governments shall seek to obtain the  
12 information in a manner and format that is comparable  
13 throughout the region and utilize readily available data to the  
14 extent possible.

15 (3) The information provided by a local government pursuant  
16 to this section shall be used, to the extent possible, by the council  
17 of governments, or delegate subregion as applicable, as source  
18 information for the methodology developed pursuant to this  
19 section. The survey shall state that none of the information  
20 received may be used as a basis for reducing the total housing  
21 need established for the region pursuant to Section 65584.01.

22 (4) If the council of governments fails to conduct a survey  
23 pursuant to this subdivision, a city, county, or city and county  
24 may submit information related to the items listed in subdivision  
25 (d) prior to the public comment period provided for in  
26 subdivision (c).

27 (c) Public participation and access shall be required in the  
28 development of the methodology and in the process of drafting  
29 and adoption of the allocation of the regional housing needs.  
30 Participation by organizations other than local jurisdictions and  
31 councils of governments shall be solicited in a diligent effort to  
32 achieve public participation of all economic segments of the  
33 community. The proposed methodology, along with any relevant  
34 underlying data and assumptions, and an explanation of how  
35 information about local government conditions gathered pursuant  
36 to subdivision (b) has been used to develop the proposed  
37 methodology, and how each of the factors listed in subdivision  
38 (d) is incorporated into the methodology, shall be distributed to  
39 all cities, counties, any subregions, and members of the public  
40 who have made a written request for the proposed methodology.

1 The council of governments, or delegate subregion, as applicable,  
2 shall conduct at least one public hearing to receive oral and  
3 written comments on the proposed methodology.

4 (d) To the extent that sufficient data is available from local  
5 governments pursuant to subdivision (b) or other sources, each  
6 council of governments, or delegate subregion as applicable,  
7 shall include the following factors to develop the methodology  
8 that allocates regional housing needs:

9 ~~(1) Sufficient for each member jurisdiction to be responsible~~  
10 ~~for accommodating at least its own natural population increases~~  
11 ~~and job generation.~~

12 ~~(2)~~

13 (1) Each member jurisdiction's existing and projected jobs and  
14 housing relationship.

15 ~~(3)~~

16 (2) The opportunities and constraints to development of  
17 additional housing in each member jurisdiction, including all of  
18 the following:

19 (A) Lack of capacity for sewer or water service due to federal  
20 or state laws, regulations or regulatory actions, or supply and  
21 distribution decisions made by a sewer or water service provider  
22 other than the local jurisdiction that preclude the jurisdiction  
23 from providing necessary infrastructure for additional  
24 development during the planning period.

25 (B) The availability of land suitable for urban development or  
26 for conversion to residential use, the availability of underutilized  
27 land, and opportunities for infill development and increased  
28 residential densities. The council of governments may not limit  
29 its consideration of suitable housing sites or land suitable for  
30 urban development to existing zoning ordinances and land use  
31 restrictions of a locality, but shall consider the potential for  
32 increased residential development under alternative zoning  
33 ordinances and land use restrictions, *and shall further consider*  
34 *reforms to the policies described in paragraphs (6), (10), and*  
35 *(11) that otherwise hinder a community from meeting its regional*  
36 *housing need.*

37 (C) Lands preserved or protected from urban development  
38 under existing federal or state programs, or both, designed to  
39 protect open space, farmland, environmental habitats, and natural  
40 resources on a long-term basis.

1 (D) County policies to preserve prime agricultural land, as  
2 defined pursuant to Section 56064, within an unincorporated  
3 area.

4 ~~(4)~~

5 (3) The distribution of household growth assumed for  
6 purposes of a comparable period of regional transportation plans  
7 and opportunities to maximize the use of public transportation  
8 and existing transportation infrastructure.

9 ~~(5)~~

10 (4) The market demand for housing.

11 ~~(6)~~

12 (5) Agreements between a county and cities in a county to  
13 direct growth toward incorporated areas of the county.

14 ~~(7)~~

15 (6) The loss of units contained in assisted housing  
16 developments, as defined in paragraph (7) of subdivision (b) of  
17 Section 65583, that changed to non-low-income use through  
18 mortgage prepayment, subsidy contract expirations, or  
19 termination of use restrictions.

20 ~~(8)~~

21 (7) High housing costs burdens.

22 ~~(9)~~

23 (8) The housing needs of farmworkers.

24 ~~(10)~~

25 (9) Adopted spheres of influence for each city and county in  
26 the region.

27 ~~(11)~~

28 (10) Local agency formation commission policies relating to  
29 logical and orderly growth patterns in the region.

30 ~~(12)~~

31 (11) Any other factors adopted by the council of governments.

32 (e) The council of governments, or delegate subregion, as  
33 applicable, shall explain in writing how each of the factors  
34 described in subdivision (d) was incorporated into the  
35 methodology and how the methodology is consistent with  
36 subdivision (e) of Section 65584. The methodology may include  
37 numerical weighting.

38 (f) Any ordinance, policy, voter-approved measure, or  
39 standard of a city or county that directly or indirectly limits the  
40 number of residential building permits issued by a city or county

1 shall not be a justification for a determination or a reduction in  
2 the share of a city or county of the regional housing need.

3 (g) In addition to the factors identified pursuant to subdivision  
4 (d), the council of governments, or delegate subregion, as  
5 applicable, shall identify any existing local, regional, or state  
6 incentives, such as a priority for funding or other incentives  
7 available to those local governments that are willing to accept a  
8 higher share than proposed in the draft allocation to those local  
9 governments by the council of governments or delegate  
10 subregion pursuant to Section 65584.05.

11 (h) Following the conclusion of the 60-day public comment  
12 period described in subdivision (c) on the proposed allocation  
13 methodology, and after making any revisions deemed appropriate  
14 by the council of governments, or delegate subregion, as  
15 applicable, as a result of comments received during the public  
16 comment period, each council of governments, or delegate  
17 subregion, as applicable, shall adopt a final regional, or  
18 subregional, housing need allocation methodology and provide  
19 notice of the adoption of the methodology to the jurisdictions  
20 within the region, or delegate subregion as applicable, and to the  
21 department.

22 ~~SEC. 15.~~

23 *SEC. 24.* Section 65584.07 of the Government Code is  
24 amended to read:

25 65584.07. (a) During the period between adoption of a final  
26 regional housing needs allocation until the due date of the  
27 housing element update pursuant to Section 65588, the council of  
28 governments, or the department, whichever assigned the county's  
29 share, shall reduce the share of regional housing needs of a city  
30 or county if all of the following conditions are met:

31 (1) ~~One or more local governments~~ *cities* within a county ~~or~~  
32 ~~housing market area~~ agree to increase its share or their shares in  
33 an amount equivalent to the reduction, so that the total regional  
34 housing need is maintained.

35 (2) The transfer of shares shall only occur between ~~local~~  
36 ~~governments within the same county or housing market area.~~ *a*  
37 *county and cities within that county.*

38 (3) *The county's share of low-income and very low income*  
39 *housing shall be reduced only in proportion to the amount by*

1 *which the county's share of moderate-income and above*  
2 *moderate-income housing is reduced.*

3 ~~(3)~~

4 (4) The council of governments or the department, whichever  
5 assigned the county's share, shall approve the proposed  
6 reduction, ~~if the proposed transfer request demonstrates it~~  
7 *determines* that the conditions set forth in paragraphs (1)~~and (2)~~,  
8 (2), *and (3)* have been satisfied. *The county and city or cities*  
9 *proposing the transfer shall submit an analysis of the factors and*  
10 *circumstances, with all supporting data, justifying the revision to*  
11 *the council of governments or the department.* The council of  
12 governments shall submit a copy of its decision regarding the  
13 proposed reduction to the department prior to the execution of  
14 any transfer of shares.

15 (b) The county and cities that have executed transfers of  
16 regional housing need pursuant to this section shall amend their  
17 housing elements and submit them to the department for review  
18 pursuant to Section 65585.

19 All materials and data used to justify any revision shall be  
20 made available upon request to any interested party within seven  
21 days upon payment of reasonable costs of reproduction unless the  
22 costs are waived due to economic hardship. A fee may be  
23 charged to interested parties for any additional costs caused by  
24 the amendments made to former subdivision (c) of Section 65584  
25 that reduced from 45 to 7 days the time within which materials  
26 and data were required to be made available to interested parties.

27 (c) In the event an incorporation of a new city occurs after the  
28 council of governments, or the department for areas with no  
29 council of governments, has made its final allocation under this  
30 section, the city and county may reach a mutually acceptable  
31 agreement on a revised determination and report the revision to  
32 the council of governments and the department, or to the  
33 department for areas with no council of governments. If the  
34 affected parties cannot reach a mutually acceptable agreement,  
35 then either party may request the council of governments, or the  
36 department for areas with no council of governments, to consider  
37 the facts, data, and methodology presented by both parties and  
38 make the revised determination.

39 The revised determination shall be made within one year of the  
40 incorporation of the new city based upon the methodology

1 described in subdivision (a) and shall reallocate a portion of the  
2 affected county's share of regional housing needs to the new city.  
3 The revised determination shall neither reduce the total regional  
4 housing needs nor change the previous allocation of the regional  
5 housing needs assigned by the council of governments or the  
6 department for areas with no council of governments, to other  
7 cities within the affected county.

8 *SEC. 25. Section 65585 of the Government Code is amended*  
9 *to read:*

10 65585. (a) In the preparation of its housing element, each  
11 city and county shall consider the guidelines adopted by the  
12 department pursuant to Section 50459 of the Health and Safety  
13 Code. Those guidelines shall be advisory to each city or county  
14 in the preparation of its housing element.

15 (b) At least 90 days prior to adoption of its housing element,  
16 or at least 60 days prior to the adoption of an amendment to this  
17 element, the planning agency shall submit a draft element or draft  
18 amendment to the department. The department shall review the  
19 draft and report its written findings to the planning agency within  
20 90 days of its receipt of the draft in the case of an adoption or  
21 within 60 days of its receipt in the case of a draft amendment.  
22 *The department, in its report and written findings, shall also*  
23 *address the reports concerning policy reforms submitted*  
24 *pursuant to subparagraph (A) of paragraph (4) of subdivision (b)*  
25 *of Section 65583.*

26 (c) In the preparation of its findings, the department may  
27 consult with any public agency, group, or person. The  
28 department shall receive and consider any written comments  
29 from any public agency, group, or person regarding the draft or  
30 adopted element or amendment under review.

31 (d) In its written findings, the department shall determine  
32 whether the draft element or draft amendment substantially  
33 complies with the requirements of this article.

34 (e) Prior to the adoption of its draft element or draft  
35 amendment, the legislative body shall consider the findings made  
36 by the department. If the department's findings are not available  
37 within the time limits set by this section, the legislative body may  
38 act without them.

39 (f) If the department finds that the draft element or draft  
40 amendment does not substantially comply with the requirements

1 of this article, the legislative body shall take one of the following  
2 actions:

3 (1) Change the draft element or draft amendment to  
4 substantially comply with the requirements of this article.

5 (2) Adopt the draft element or draft amendment without  
6 changes. The legislative body shall include in its resolution of  
7 adoption written findings which explain the reasons the  
8 legislative body believes that the draft element or draft  
9 amendment substantially complies with the requirements of this  
10 article despite the findings of the department.

11 (g) Promptly following the adoption of its element or  
12 amendment, the planning agency shall submit a copy to the  
13 department.

14 (h) The department shall, within 90 days, review adopted  
15 housing elements or amendments and report its findings to the  
16 planning agency.

17 ~~SEC. 16.~~

18 *SEC. 26.* Section 65588 of the Government Code is repealed.

19 ~~SEC. 17.~~

20 *SEC. 27.* Section 65588 is added to the Government Code, to  
21 read:

22 65588. (a) Each local government shall review its housing  
23 element as frequently as appropriate to evaluate the following:

24 (1) The effectiveness of the element including a review of the  
25 results of goals, objectives, policies, and programs from the prior  
26 planning period and an analysis of any difference between what  
27 was planned from the prior planning period and what was  
28 actually achieved.

29 (2) The appropriateness of the goals, objectives, and policies  
30 and programs of the updated element based on the analysis of the  
31 review of the results of the prior planning period. The goals,  
32 objectives, policies, and programs of the element should be  
33 revised to reflect the results of this review.

34 (b) The housing element shall be comprehensively updated  
35 every ~~10~~ five years to, among other things, reflect the results of  
36 this periodic review and to incorporate the projected housing  
37 need. The land inventory and analyses of constraints shall be  
38 reviewed and updated every five years. The housing opportunity  
39 plan shall be reviewed and updated every five years as provided  
40 in ~~Article 9 (commencing with Section 65470). The land use~~

~~element and other relevant portions of the general plan shall be revised as necessary to maintain consistency with the housing element. Section 65583.4. As part of the update process, the local government shall ensure that the general plan and all of its elements are internally consistent.~~

(c) Notwithstanding subdivision (b) or the date of adoption of the housing element previously in existence, the date of revisions for the housing element shall be modified as follows:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: \_\_\_\_.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: \_\_\_\_.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: \_\_\_\_.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: \_\_\_\_.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: \_\_\_\_.

(6) All other local governments: \_\_\_\_.

(7) Subsequent comprehensive revisions shall be completed not less often than at 10-year intervals following these dates, with update reviews completed every five years.

~~SEC. 18.~~

~~SEC. 28.~~ In connection with enacting the health or safety findings requirements of Article 9 (~~commencing with Section 65470~~) added to Chapter 4 10.6 (*commencing with Section 65580*) of Chapter 3 of Division 1 of Title 7 of the Government Code ~~by Section 7 of this act~~, the Legislature finds and declares that the Court of Appeal opinion in *Mira Development Corporation v. City of San Diego* (1988) 205 Cal.App.3d 1201, is inconsistent with the Legislature's intent that (a) the phrase "health or safety" be construed narrowly and (b) that substantial ~~evidenced~~ *evidence* in support of a health or safety finding be of ponderable legal significance, reasonable in nature, credible, and of solid value in light of all of the evidence in the record.

~~SEC. 19.~~ No reimbursement shall be made pursuant to Part 7 (~~commencing with Section 17500~~) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to

1 ~~this act. It is recognized, however, that a local agency or school~~  
2 ~~district may pursue any remedies to obtain reimbursement~~  
3 ~~available to it under Part 7 (commencing with Section 17500)~~  
4 ~~and any other provisions of law.~~

5 *SEC. 29. No reimbursement is required by this act pursuant*  
6 *to Section 6 of Article XIII B of the California Constitution*  
7 *because a local agency or school district has the authority to levy*  
8 *service charges, fees, or assessments sufficient to pay for the*  
9 *program or level of service mandated by this act, within the*  
10 *meaning of Section 17556 of the Government Code.*

11 *However, if the Commission on State Mandates determines that*  
12 *this act contains other costs mandated by the state,*  
13 *reimbursement to local agencies and school districts for those*  
14 *costs shall be made pursuant to Part 7 (commencing with Section*  
15 *17500) of Division 4 of Title 2 of the Government Code.*